

SUPPLEMENTAL RENTAL LIABILITY INSURANCE NEW YORK

DECLARATIONS

Policy No: See "Rental Agreement" Number

Carrier: Empire Fire and Marine Insurance Company
13810 FNB Parkway, PO Box 542003
Omaha, Nebraska 68154-8003

ITEM 1. "RENTAL AGENCY"
The Rental Company shown in the referenced "Rental Agreement"

ITEM 2. "INSURED" ("Renter" of vehicle)
The "Renter" shown in the referenced "Rental Agreement"

ITEM 3. COVERAGE PERIOD: Duration of vehicle rental
(See Section II. Coverage Period)

ITEM 4. LIMIT OF LIABILITY:

The difference between \$ 300,000 combined single limit each accident "bodily injury" and "property damage" and the "Underlying Insurance" described in ITEM 5.
There is no deductible.

ITEM 5. "UNDERLYING INSURANCE": The greater of:

- A.** \$ 25,000. Each Person - Bodily Injury
\$ 50,000. Each Person - Death
\$ 50,000. Each Accident - Bodily Injury
\$100,000. Each Accident - Death
\$ 10,000. Each Accident - Property Damage;
As provided under the terms of the "Rental Agreement"; or
- B.** Any other higher Automobile Liability limits (other than "Supplemental Rental Liability Insurance") which are provided by the "Rental Agreement" or have been prearranged or contracted between the "Rental Agency" and "Renter".

ITEM 6. Premium Rate: \$ 16.20 Per Car, Per Day of Rental

IT IS HEREBY AGREED AND UNDERSTOOD, THE "RENTER" IS NOT REQUIRED TO PURCHASE THIS INSURANCE IN ORDER TO RENT A VEHICLE.

IT IS FURTHER AGREED THAT THESE INSURANCE COVERAGES OFFERED MAY PROVIDE A DUPLICATION ON COVERAGE ALREADY PROVIDED BY A RENTER'S PERSONAL AUTOMOBILE INSURANCE, HOMEOWNER'S INSURANCE, PERSONAL LIABILITY INSURANCE, OR OTHER SOURCE OF COVERAGE.

This policy is governed by the laws of the jurisdiction in which it is delivered. The provisions hereinafter contained are part of this policy as fully as if recited over the signatures hereto affixed. IN WITNESS WHEREOF, Empire Fire and Marine Insurance Company has caused this policy to be signed by its President and Secretary.

Nancy D. Mueller
President

Donald K. Kumpf
Secretary

E. Suit: No Action can be brought by you unless the provisions of this policy have been complied with and the amount of your obligation to pay has been decided.

Any person, organization or their legal representative is entitled to recover under this policy after they have secured a judgment or written agreement against you. Recovery is limited to the extent of the insurance afforded by this policy. No person or organization has any right under this policy to include us in any direct action against you to determine your liability nor will we be brought into such an action by you or your representative. If you or your estate becomes bankrupt or insolvent, it does not change any of our obligations under this policy.

F. Notice of Suit: Notice to the "Rental Agency", "Agent" or to us is notice to us.

G. Changes: This policy together with the "Rental Agreement" constitutes the entire contract of insurance. No "Agent" or "Rental Agency" has authority to change this policy or waive any of its provisions.

H. Other Insurance: When you are covered by insurance other than this policy and the "Underlying Insurance", that other insurance is excess.

I. Transfer Of Duties When A Limit Of Insurance Is Used Up:

1. If we conclude that, based on "accidents", claims or suits which have been reported to us and to which this insurance may apply, the Limit Of Insurance is likely to be used up in the payment of judgments or settlements, we will notify the "Insured", in writing, to that effect.

2. When the Limit Of Insurance has actually been used up in the payment of judgments or settlements:

a. We will notify the "Insured", in writing, as soon as possible, that:

- (1) Such limit has actually been used up; and
- (2) Our duty to defend suits seeking damages subject to that limit has also ended.

b. We will initiate, and cooperate in, the transfer of control, to any appropriate "Insured", of all claims and suits seeking damages which are subject to that limit and which are reported to us before that limit is used up. That "Insured" must cooperate in the transfer of control of said claims and suits. We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such suits until such transfer is completed, provided the appropriate "Insured" is cooperating in completing such transfer. We will take no action whatsoever with respect to any claim or suit seeking damages that would have been subject to that limit, had it not been used up, if the claim or suit is reported to us after that limit of insurance has been used up.

c. The "Insured", and any other "Insured" involved in a suit seeking damages subject to that limit, must arrange for the defense of such suit within such time period as agreed to between the appropriate "Insured" and us. Absent any such agreement, arrangements for the defense of such suit must be made as soon as possible.

3. The "Insured" will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph 2.b. above. The duty of the "Insured" to reimburse us will begin on:

- a.** The date we sent notice in accordance with Paragraph 1. above; or
- b.** The date on which we sent notice in accordance with Paragraph 2.a. above, if we did not send notice in accordance with Paragraph 1. above.

4. The exhaustion of the Limit Of Insurance by the payments of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

J. Cancellation: The "Insured" may cancel this "Supplemental Rental Liability Insurance" at any time and any unearned premium will be refunded in accordance with applicable law.

VIII. DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Agent" means an employee of the "Rental Agency" authorized and licensed to rent cars and sell this insurance.

C. "Authorized Driver" means any individual who has a valid driver's license, meets the rental requirements as stated in the "Rental Agreement" and is listed on the "Rental Agreement" as an "Authorized Driver".

D. "Bodily Injury" means bodily injury, sickness or disease sustained by a person as well as any injury damage or loss of services or care to others resulting from such bodily injury, sickness or disease, including but not limited to loss of consortium or injury to the relationship. "Bodily Injury" shall also include death resulting from any of the above. Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the Policy or any Endorsement attached thereto, except as herein set forth.

E. "Insured" means the person or organization qualifying as an insured in Section III. Who Is An Insured.

F. "Loss" means amounts paid in settlement of a claim or judgment for which you are legally liable. The amounts are subject to deductions for subrogation, salvage, and any recoveries available. Loss does not include costs of defense, interest on judgments, or other expenses paid in defense or investigation of the claim.

G. "Pollutants" mean any liquid, gaseous, or thermal irritant contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

H. "Property Damage" and "Damage" mean destruction of or loss of use of tangible property.

I. "Rental Agency" means the company that owns and rents or leases the "Rental Vehicle".

J. "Rental Agreement" means the rental contract by which the "Rental Agent" rents or leases the "Rental Vehicle".

K. "Rental Vehicle" means the motor vehicle rented or leased by a "Renter" from the "Rental Agent".

L. "Renter" means the person or organization shown on the "Rental Agreement" as renting or leasing a motor vehicle from the "Rental Agency".

M. "Supplemental Rental Liability Insurance" means optional liability insurance elected by a "Renter" at the origin of a "Rental Agreement".

N. "Underlying Insurance" means the insurance listed on the Declarations of this policy, which provides the layer of coverage immediately preceding the layer of coverage by this policy. Underlying Insurance also means any plan of risk retention in which a program or procedure has been established, other than insurance to meet the adverse result of a "loss".

FOR SERVICE RELATED INQUIRIES OR TO REPORT A CLAIM, PLEASE CONTACT:

EMPIRE FIRE AND MARINE INSURANCE COMPANY:

TOLL FREE: 800-987-3373

**EMPLOYEES, AGENTS OR ENDORSEES OF
RENTAL OPERATOR ARE NOT QUALIFIED TO
EVALUATE THE ADEQUACY OF RENTEE'S
EXISTING COVERAGE.**

POLICY PROVISIONS

Throughout this policy the words "we", "us" or "our" refer to the Insurance Company named in the Declarations. The words "you" or "your" refer to an "Insured". In addition, certain words or phrases identified by quotation marks are defined in **PART VIII - Definitions**.

I. COVERAGE AGREEMENTS

- A.** This policy provides excess auto liability insurance and only applies to a "loss" involving "bodily injury" and "property damage" caused by an "accident" and resulting from the use of a "Rental Vehicle" identified in the referenced "Rental Agreement" during the coverage period.
- B.** This is excess insurance and only applies to those coverages for which underlying limits of liability are shown on the Declarations of this policy.
- C.** Subject to **A. & B.** above, we will pay for the amounts of "loss"
1. Exceeding the limits of liability of all "Underlying Insurance" stated in **ITEM 5** of the Declarations but only for the hazards insured in such "Underlying Insurance" and
 2. Only up to the limit of liability stated in the Declarations of this policy as our limits of liability.
- D.** When the obligations of Underlying Insurers or Self-Insurers to defend you against suits or reimburse you for defense fees, costs, and expenses you incur stops because a limit of liability has been exhausted, we will pay for the reasonable additional defense fees, costs and expenses you incur in the defense of suits even if the allegations of the suit are groundless, false or fraudulent. Our duty to defend or settle ends when the Limit of Liability has been exhausted by payment of judgments or settlements. Defense fees, costs, and expenses, whether incurred by us or by you and which are covered under this policy, are in addition to our limit of liability.
- E.** All provisions of the immediate "Underlying Insurance" are considered as part of this policy except any obligation to investigate, defend or pay for such costs and expenses of your defense.

II. COVERAGE PERIOD

- A.** Coverage is effective when an "Insured" takes possession of the "Rental Vehicle" and ends the earlier of:
1. The termination of the "Rental Agreement",
 2. Return of the "Rental Vehicle" to the "Rental Agency" or its designated representative,
 3. Thirty (30) consecutive days from the effective date of coverage.

III. WHO IS AN INSURED

- A.** "Insured" means:
1. A "Renter" who has:
 - a. Entered into the referenced "Rental Agreement" with the "Rental Agency" shown in the Declarations; and
 - b. Elected under the "Rental Agreement" to purchase optional "Supplemental Rental Liability Insurance"; and
 - c. Paid for optional "Supplemental Rental Liability Insurance".
 2. Additional "Authorized Drivers" whose names appear on the "Rental Agreement", where the "Renter" has complied with paragraphs, **A.1.a., b., and c.** above.
- B.** "Insured" does not mean:
1. The "Rental Agency" or owner of the "Rental Vehicle", or
 2. Any employee, representative or family member of the "Rental Agency"; or
 3. Any driver who is not an "Authorized Driver" under the terms of the "Rental Agreement", or whose name does not appear on the "Rental Agreement".

IV. LIMIT OF INSURANCE

- A.** Regardless of the number of "Insureds", "Rental Vehicles", premiums paid, or claims made, the most we will pay for "loss" or "damage" is the difference between the limits of liability provided by the "Underlying Insurance" and the limit shown in **ITEM 4** of the Declarations.

- B.** The "bodily injury" liability limit for each person as set forth in the Declarations, and anywhere else in the Policy, is the limit of our liability for all damages arising out of "bodily injury" sustained by one person as a result of any one occurrence. Any claims for damages for loss of services and care, including but not limited to loss of consortium or injury to the relationship, shall be included in the "bodily injury" liability limit for each injured person.

V. EXCLUSIONS

This insurance does not apply to:

- A.** Expected or Intended Injury - "Bodily Injury" or "property damage" expected or intended from the standpoint of an "Insured".
- B.** Workers' Compensation - Any obligation for which an "Insured" or the "Insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.
- C.** Employee Indemnification - "Bodily Injury" to an employee of an "Insured" arising out of and in the course of employment by an "Insured".

This exclusion applies:

1. Whether an "Insured" may be liable as an employer or in any other capacity; and
 2. To any obligation to share damages with or repay someone else who must pay damages because of the injury.
- D.** Fellow Employee - "Bodily Injury" to any fellow employee of an "Insured" arising out of and in the course of the fellow employee's employment but only if such fellow employee is eligible for coverage under any workers' compensation, unemployment compensation or disability benefits law, or any similar law.
- E.** Care, Custody or Control - "Property damage" to or covered pollution cost or expense involving property transported by an "Insured" or in an "Insured's" care, custody or control.
- F.** Pollution - "Bodily Injury" or "Property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
1. That are or that are contained in any property that is:
 - a. Being transported or towed by, handled, or handled for movement into, onto or from, the covered auto;
 - b. Otherwise in the course of transit by or on behalf of an "Insured"; or
 - c. Being stored, disposed of, treated or processed in or upon the covered auto;
 2. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by an "Insured" for movement into or onto the covered auto; or
 3. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered auto to the place where they are finally delivered, disposed of or abandoned by an insured.

Paragraph 1. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered auto or its parts, if:

The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an auto part designed by its manufacturer to hold, store, receive or dispose of such "pollutants".

- G.** War - "Bodily Injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

- H.** Liability arising out of the any prohibited uses of the "Rental Vehicle", including but not limited to:

1. Carrying people or property for hire;
2. Use of vehicle in the commission of a crime;
3. Use in any speed or demolition contest;
4. Towing or pushing anything; or
5. Driving into or within Mexico.

- I.** Liability for "Damage" to the "Rental Vehicle".

- J.** "Loss" or "Damage" intentionally caused by an "Insured".

- K.** Liability arising out of the use of a "Rental Vehicle" which was obtained through a "Rental Agreement" based on fraudulent information.

- L.** Punitive or exemplary damages.

- M.** "Loss" arising out of an "accident" which occurs while the operator of the "Rental Vehicle" is under the influence of alcohol or drugs, or other substances unless used as prescribed by a physician.

- N.** Liability arising out of or benefits payable under any first party benefit law, medical payments, no-fault law or any similar law to the foregoing, in any state.

- O.** Loss" arising out of uninsured or underinsured motorists coverage.

- P.** "Loss" arising out of the operation of a "Rental Vehicle" by a driver who is not an "Insured".

- Q.** "Loss" arising out of "bodily injury" or "property damage" sustained by the spouse of the operator of the "Rental Vehicle".

VI. POLICY TERRITORY

We cover losses which occur during the "Coverage Period" within the United States and Canada, but only if the "Loss" arises out of a vehicle which is rented in the state of New York. Policy territory does not include Mexico.

VII. CONDITIONS

- A.** Insureds Duties After Loss: Whenever it appears that a "loss" is a likely to involve this policy, notice thereof shall be given to us, any "Agent" of Empire Fire and Marine Insurance Company or any office of the "Rental Agency". Such notice shall be deemed notice to Empire Fire and Marine Insurance Company. Additionally, each involved "Insured" must fully cooperate in the investigation, settlement or defense of the "loss". Failure to give any notice required by this policy within the time prescribed shall not invalidate any claim made by the "Insured" or by any other claimant if it shall be shown such notice was given as soon as reasonably possible.

- B.** Premium: The premium for this policy shall be as stated in the Declarations.

- C.** Expenses: If, at our request an "Insured" has incurred attorney fees, court costs or other expenses including interest in the investigation or defense of claims, suits, or other legal proceedings, we will be responsible for payment of them. We are not responsible for salaries or expenses of an "Insured" or any "Insured's" employee in the investigation or defense of a claim, suit, or other legal proceeding without our prior consent.

- D.** Subrogation: In the event of any payment under this policy, we shall participate with any "Insured" and any Underlying Insurer or Self-Insurer in the exercise of all of an "Insured's" rights of recovery against any person or organization liable therefore. An "Insured" must do everything necessary to secure our rights and must do nothing after "Loss" to impair them. The apportionment of any amounts recovered shall be in the following order:

1. Any party, including you, who has paid an amount above payment by this policy, shall be reimbursed up to the amount they have paid.

2. From any remaining balance, we will then be reimbursed up to the amount we have paid.

3. From any remaining balance, amounts paid by and Underlying Insurers or Self-Insurers shall then be reimbursed. Expenses and costs necessary to the recovery of an amount shall be apportioned between all parties in the ratio of their recovery. If the attempt to recover is totally unsuccessful, expenses and costs will be apportioned in the ratio of the amounts each party sought to recover.